IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND

THE HON'BLE MR JUSTICE T.CH. SURYA RAO

WRIT PETITION NO : 24978 of 2004

Between:

Mr. Satish Kumar Aggarwal, S/o. Late Sri Om Prakash Aggarwal,

R/o. Plot No. 14, Road No.5, Trimurthy Colony,

Mahendra Hills,

Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Customs & Central Excise, Tirupati.
2 The Asst. Commissioner, Customs & Central Excise,
Guntur Division, Guntur.
3 Kumar's Cotex Limited, a Public Limited Company,
Rep. by its Board of Directors,
having its Office at 10-1-5/G/1, Sunrise suites, Road No. 4,
West Marredpally,

Secunderabad-500 026.,
4 Canara Bank, rep. by its Divisional Manager,
Sick Industries Rehabilitation Section, Recovery Wing,
Head Office 112, JC Road,
Bangalore-560 002.
5 Industrial Development Bank of India, rep. by its
General Manager (PFD), World Trade Centre,
Cuffe Parade,
Mumbai.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue a Writ, direction or order especially in the nature of writ of mandamus directing the Respondent No.1 to cause an enquiry into the wrongful removal of two Auto Coners and other imported equipment from the 100% Export Oriented Unit of the third Respondent, without the necessary permission from the Central Excise and Customs Department and take appropriate action thereafter against the persons responsible for removal of machinery and pass such other orders as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR. S. RAVI

Counsel for the Respondent Nos. 1 and 2: MR. A. RAJASHEKAR REDDY (SC FOR CG)

Counsel for Respondent No.4: Mr. Deepak Bhattacharjee

Counsel for Respondents 3 and 5: -----

The Court, at the stage of admission, made the following order :

ORAL ORDER: (PER MHSA.J)

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Keeping in view the nature of relief prayed for, we are of the view that writ of Mandamus is not the proper remedy. This is for the reason that a court, by a writ of

Mandamus, may compel the State, its functionary, or any statutory authority to act in accordance with law, rule, or notification. In the case on hand, petitioner seeks a writ of Mandamus upon respondent No.1 to cause enquiry into certain alleged wrongful acts of the 3rd respondent-company, of which petitioner himself claims to be a director. No such statutory provision, rule, or notification has been placed before this court, whereby a Mandamus can be issued to respondent No.1 to cause an enquiry, as prayed for.

Accordingly, we are not inclined to entertain the instant writ petition. Same is dismissed at admission stage. No costs.

(JUSTICE M.H.S. ANSARI)

(JUSTICE T.CH. SURYA RAO)

DATE: 19.01.2005

CVM

To,

1 The Commissioner of Customs & Central Excise, Tirupati.
2 The Asst. Commissioner, Customs & Central Excise, Guntur Division, Guntur.

3. The Divisional Manager, Sick Industries Rehabilitation Section, Recovery Wing, Head Office 112, JC Road, Bangalore.

4. The General Manager (PFD), World Trade Centre, Cuffe Parade, Mumbai.
3 2 CD copies.